

No. 1995-18

AN ACT

HB 1400

Creating the Department of Conservation and Natural Resources consisting of certain functions of the Department of Environmental Resources and the Department of Community Affairs; renaming the Department of Environmental Resources as the Department of Environmental Protection; defining the role of the Environmental Quality Board in the Department of Environmental Protection; making changes to responsibilities of the State Conservation Commission and the Department of Agriculture; transferring certain powers and duties to the Department of Health; and repealing inconsistent acts.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

**CHAPTER 1
PRELIMINARY PROVISIONS**

Section 101. Findings and statement of purpose.

(a) Findings.—The General Assembly finds and declares as follows:

(1) Pennsylvania's public natural resources are to be conserved and maintained for the use and benefit of all its citizens as guaranteed by section 27 of Article I of the Constitution of Pennsylvania.

(2) Pennsylvania's State forests and parks cover almost 2.3 million acres in this Commonwealth and contain some of our State's most precious and rare natural areas.

(3) Pennsylvania has the third largest system of State parks in the United States.

(4) Our State parks and forests and community recreation and heritage conservation areas are critical to the continued success of our tourism and recreation industry, the second largest industry in the State.

(5) Our forest products industry employs over 100,000 people and contributes over \$4.5 billion a year to our economy, making it the State's fourth largest industry.

(6) Preserving, enhancing, maintaining and actively managing our system of State parks, forests, community recreation and heritage conservation areas contributes greatly to the quality of life of Pennsylvania's citizens and the economic well-being of the State.

(7) The current structure of the Department of Environmental Resources impedes the Secretary of Environmental Resources from devoting enough time, energy and money to solving the problems facing our State parks and forests.

(8) State parks and forests have taken a back seat to other environmental issues because polluted air and water and toxic waste sites, for example, are more immediate, life-threatening and publicly visible issues than natural resource concerns.

(9) State parks, forests and community recreation and heritage conservation areas have lost out in the competition for financial and staff resources because they have no cabinet-level advocate to highlight these issues for the public.

(b) Intent.—It is the intent of the General Assembly and the purpose of this act:

(1) To create a new Department of Conservation and Natural Resources to serve as a cabinet-level advocate for our State parks, forests, rivers, trails, greenways and community recreation and heritage conservation programs to provide more focused management of the Commonwealth's recreation, natural and river environments. The primary mission of the Department of Conservation and Natural Resources will be to maintain, improve and preserve State parks, to manage State forest lands to assure their long-term health, sustainability and economic use, to provide information on Pennsylvania's ecological and geologic resources and to administer grant and technical assistance programs that will benefit rivers conservation, trails and greenways, local recreation, regional heritage conservation and environmental education programs across Pennsylvania.

(2) To change the name of the Department of Environmental Resources to the Department of Environmental Protection.

(3) To retain the rulemaking powers of the Environmental Quality Board in relation to the Department of Environmental Protection.

Section 102. Short title.

This act shall be known and may be cited as the Conservation and Natural Resources Act.

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Commonwealth.” The Commonwealth of Pennsylvania.

“Department.” The Department of Conservation and Natural Resources of the Commonwealth established in section 301.

“Secretary.” The Secretary of Conservation and Natural Resources.

CHAPTER 3
DEPARTMENT OF CONSERVATION AND NATURAL
RESOURCES

Section 301. Creation of department.

The Department of Conservation and Natural Resources is hereby established as an administrative department within the executive branch of the government of this Commonwealth. The department shall be headed by the Secretary of Conservation and Natural Resources. The secretary shall be appointed by the Governor, subject to the approval of a majority of the members elected to the Senate. The secretary shall receive a salary equal to that of the Secretary of Environmental Protection.

Section 302. Forests.

(a) Acquisition, establishment and disposition.—The department has the following powers and duties with respect to the acquisition, establishment and disposition of State forest lands and certain other Commonwealth-owned resources:

(1) To acquire, in the name of the Commonwealth, by purchase, gift, lease or condemnation and hold as State forests, subject to the conditions of any lease and subject to reservations, if any, of mineral rights, stumpage rights, rights-of-way or other encumbrances as the department considers consistent with such holding, any lands, including tax-delinquent lands, which in the judgment of the department the Commonwealth should hold, manage, control, protect, maintain, utilize and regulate as State forests or for reforestation, for adding to and extending the existing State forests, for the purpose of lessening soil erosion and silting up of reservoirs, to control the flow of streams and extinguish interior holdings or for the establishment and maintenance of fire observation towers and stations and adjoining lands as may be deemed necessary to control, maintain and develop such towers and stations and furnish access to them.

(2) To purchase and hold as State forests unseated, vacant or unappropriated lands, lands advertised for sale for taxes and land sold for taxes as may now or hereafter be provided by law.

(3) To hold, manage, control, protect, maintain, utilize, develop and regulate the occupancy and use of all lands, heretofore or hereafter acquired, owned, leased and maintained as State forests or for reforestation, for extending existing State forests, for the purpose of lessening soil erosion and the silting up of reservoirs, to control stream flow, to extinguish interior holdings and for fire observation tower and station purposes, together with the resources thereof.

(4) To divide this Commonwealth into such convenient forest districts as it considers economical and effective, to administer, protect, develop, utilize and regulate the occupancy and use of the lands and resources of the State forests, to protect all forest land in this Commonwealth from forest fires, fungi, insects and other enemies, to promote and develop forestry and knowledge of forestry throughout this Commonwealth, to advise and assist landowners in the planting of forest and shade trees, to obtain and publish information respecting forest lands and forestry in this Commonwealth, to assist in Arbor Day work and promote and advance any other activity in local forestry which the department may consider

helpful to the public interest and to execute the rules and regulations of the department for the protection of forests from fire and depredation. It may also assign district foresters to take active charge of such forest districts and also foresters, forest rangers and other help for the administration of forest districts as the secretary considers necessary and for the accomplishment throughout this Commonwealth of the purposes for which the department is established.

(5) To cooperate with the authorities of townships, boroughs and cities of this Commonwealth in the acquisition and administration of municipal forests, as may now or hereafter be provided by law.

(6) Whenever it shall appear that the welfare of this Commonwealth, with reference to reforestation and the betterment of the State forests, with respect to control, scientific management, protection, utilization, development and regulation of their occupancy and use, will be advanced by selling or disposing of any of the timber on the State forests, to dispose of timber on terms most advantageous to this Commonwealth. The department is authorized and directed to set aside, within the State forests, unusual or historical groves of trees or natural features especially worthy of permanent preservation, to make the same accessible and convenient for public use and to dedicate them in perpetuity to the citizens of this Commonwealth for their recreation and enjoyment. The department is hereby empowered to make and execute contracts or leases in the name of the Commonwealth for the mining or removal of any valuable minerals that may be found in State forests, or of oil and gas beneath those waters of Lake Erie owned by the Commonwealth, or of oil and gas beneath the land of Woodville State Hospital owned by the Commonwealth, whenever it shall appear to the satisfaction of the department that it would be for the best interests of this Commonwealth to make such disposition of those minerals. Any proposed contracts or leases of valuable minerals exceeding \$1,000 in value shall have been advertised once a week for three weeks, in at least two newspapers published nearest the locality indicated, in advance of awarding such contract or lease. The contracts or leases may then be awarded to the highest and best bidder, who shall give bond for the proper performance of the contract as the department shall designate. However, where the Commonwealth owns a fractional interest in the oil, natural gas and other minerals under State forest lands, the requirement of competitive bidding may be waived, and the department may enter into a contract to lease that fractional interest, with the approval of the Governor, and upon such terms and conditions as the department deems to be in the best interest of this Commonwealth.

(7) To appoint and, with the approval of the Governor, fix the compensation of a Chief Forest Fire Warden and such district forest fire wardens, and to appoint and fix the compensation of such local forest fire wardens and other assistants as shall be required for the prevention, control, and extinction of forest fires.

(8) To establish and administer auxiliary forest reserves, in the manner and under the terms and conditions as may now or hereafter be provided by law.

(9) To distribute young forest trees, shrubs and vines as provided by law to those desiring to plant them.

(10) To furnish information and issue certificates and requisitions necessary for the payment of the fixed charges, in lieu of taxes on State forest and auxiliary forest reserves, to school districts, road districts and counties, as may now or hereafter be provided by law.

(11) To sell or exchange State forest land, as provided by law, whenever it shall be to the advantage of the State forest interests, provided that such action has been approved by the Governor.

(12) To set aside, when in the judgment of the department it is considered necessary, for exclusive use for parks, parkways and other places of scientific, scenic, historic or wildlife interest, any State-owned lands which are now or which may hereafter be under the jurisdiction of the department.

(13) To have the authority, with the approval of the Governor, to enter into agreements with owners or lessees of property or property rights located in the same area as lands owned or leased by the Commonwealth, for the protection, preservation or recovery of metallic or nonmetallic ore, fuel, oil, natural gas or any other mineral deposits underlying those lands, provided the deposits are owned by the Commonwealth.

(b) Utilization and protection.—The department has the following powers and duties with respect to the utilization and protection of State forest lands:

(1) To lease for a period not exceeding ten years, on terms and conditions as it may consider reasonable, to any person, corporation, association, church organization or school board of this Commonwealth, such portion of any State forest, whether owned or leased by the Commonwealth, as the department may consider suitable, as a site for buildings and facilities to be used by such person, corporation, association, church organization or school board for health and recreation, or as a site for a church or school purposes. However, the department may, with the approval of the Governor, if a substantial capital investment is involved and if it is deemed in the best interests of this Commonwealth, enter into such leases for a period not to exceed 35 years. The department shall not terminate the lease of a person whose cabin has been destroyed or seriously damaged by fire, storm, flood or other natural causes and shall permit the rebuilding of such cabin. The department shall permit persons holding leases to renovate or make additions to existing cabins with the approval of the department.

(2) To lease, for not more than ten years, small areas in State forests, whether owned or leased by the Commonwealth, which it considers to be better suited for the growing of other crops than for the growing of forest trees. If more than one person shall apply for the same tract, the lease shall be advertised for sale in three local county papers, if there be so

many, once a week for three weeks, and may then be awarded to the highest responsible bidder, but the department may nevertheless reject any or all bids. Upon the termination of any such lease, the lessee may remove buildings and fences placed thereon at his own expense, or the same may be purchased by the lessor as a part of the permanent improvement of the tract, upon such terms as may be agreed upon by the department and the lessee.

(3) To grant rights-of-way through State forests to individuals or corporations who may apply therefor when it shall appear to the department that the grant of a right-of-way will not so adversely affect the land as to interfere with its usual and orderly administration, and when it shall appear that the interests of the Commonwealth or its citizens will be promoted by such grant. Right-of-way, as used in this subsection, is hereby construed to include rights of passage and haulage for any lawful purpose, also rights of flowage or transmission for any lawful purpose.

(4) To give to street railway companies, duly incorporated under the laws of this Commonwealth, upon such terms and subject to such restrictions and regulations as the department considers proper, the privilege to construct, maintain and operate their lines of railway over, along and upon public highways now laid out and in actual use, which lie within or border on any State forests, whenever the interests of the Commonwealth will be benefited.

(5) To give to boroughs and other municipalities of this Commonwealth and to related municipal authorities, upon such terms and subject to restrictions and regulations as the department considers proper, the privilege of impounding water and drilling water wells upon any State forest, and of constructing, maintaining and operating lines of pipes upon and through State forests for the purpose of conveying water therefrom, whenever it shall be to the public interest so to do.

(6) In all cases where there are public roads, regularly established, running into or through or bordering upon State forests, from time to time, to expend such reasonable sums for the maintenance, repair or extension of such roads as may be necessary for the proper administration and protection of State forests. All expenses that may thus be incurred shall be paid in the same manner as the other expenses of the department.

(7) To enter into cooperative agreements with county, township, municipal and private agencies for the prevention and suppression of forest fires as provided by law.

(8) To grant to public utility companies lawfully doing business in this Commonwealth the privilege to construct, maintain and operate their lines over, along and upon highways and roads which lie within or border on any State forests and to grant right of access by such companies to or through State forest lands, in order to bring public utilities to camps and cottages in State forest lands and in other homes and farms adjacent to State forest lands.

(9) To grant to individuals, groups of individuals, associations, firms, partnerships or corporations the privilege to erect, construct, maintain and operate, on and over State-owned or -leased lands under the jurisdiction of the department, antennas, towers, stations, cables and other devices and apparatus, helpful, necessary or required for broadcasting, telecasting, transmission, relaying or reception of television. It may charge for such privilege such rental and damages as the department deems the conditions and circumstances warrant.

(10) To lease, with the approval of the Governor, State forest lands for the underground storage of natural gas, upon such terms and conditions as the secretary deems to be in the best interest of this Commonwealth.

(11) To lease, with the approval of the Governor, and in cooperation with the Department of Commerce, those State forest lands acquired by gift from Pennsylvania State University or by acquisition from the Curtiss-Wright Corporation which are located at Quehanna, Pennsylvania, or recovered through the termination of a lease with Curtiss-Wright Corporation relating to Quehanna, Pennsylvania, and upon which are erected certain industrial buildings constructed by the Curtiss-Wright Corporation for industrial or economic development purposes or for nuclear reactor safety zone purposes. Such leases may be made with industrial tenants or nonprofit industrial development corporations. The department in securing tenants shall cooperate fully with the Department of Commerce. Every such lease entered into shall conform in general to the terms of the standard industrial lease used by the department and approved by the General Counsel and the Attorney General. Every such lease shall otherwise than as in this act prescribed be upon such terms and conditions as the secretary considers in the best interests of this Commonwealth. However, all paved roads through the Quehanna project shall remain open to the general public use. Any such lease may permit the tenant to alter or expand, at its own expense and with the approval of the department first obtained in writing, existing buildings to meet the requirements of its particular industrial operation. Every such lease shall provide for the deposit of industrial floor space rentals and sewage and water rentals in a restricted revenue account from which the department may draw moneys for use in developing, operating and maintaining the water and sewage disposal facilities, and replacing machinery, equipment and fixtures appurtenant thereto, at aforesaid Quehanna. The restricted revenue account shall be audited two years from the effective date of this act and at two-year intervals thereafter, with any residue appearing in the account at the end of each auditing period to be deposited in the General Fund. The department is hereby authorized to indemnify and hold harmless PermaGrain Products, Inc., from and against any and all damages incurred by PermaGrain Products, Inc., related to personal injury or property damage, resulting from radioactive contamination arising exclusively from performance by this Commonwealth or its contractors of the characterization, remediation, decontamination and removal of radioactive

materials from contaminated structures on those State forest lands acquired from the Pennsylvania State University or Curtiss-Wright Corporation and located at Quehanna, Pennsylvania.

(c) Authority of officers.—The persons employed, under the provisions of this act, by the department for the protection of the State parks and State forests shall after taking the proper official oath before the clerk of the court of common pleas of any county of this Commonwealth be vested with the same powers as are by existing laws conferred upon constables and other peace officers, to arrest on view, without first procuring a warrant therefor, persons detected by them in the act of trespassing upon any forest or timber land within this Commonwealth, under such circumstances as to warrant the reasonable suspicion that such person or persons have committed, are committing or are about to commit any offense or offenses against any of the laws now enacted or hereafter to be enacted for the protection of forests and timber lands. The officers shall likewise be vested with similar powers of arrest in the case of offenses against the laws or rules and regulations enacted or established, or to be enacted or established, for the protection of the State forests or for the protection of the fish and game contained therein. However, the above-mentioned rules and regulations shall have been previously conspicuously posted upon the State forests. The officers shall further be empowered and it shall be their duty immediately upon any such arrest to take and convey the offender or offenders before a justice of the peace or other magistrate having jurisdiction, for hearing and trial or other due process of law. The powers conferred in this subsection upon forest officers shall extend only to the case of offenses committed upon the State forests and lands adjacent thereto, and the powers conferred in this subsection upon the officers shall not be exercised beyond the limits thereof, except where necessary for the purpose of pursuing and arresting such offenders, or of conveying them into the proper legal custody for punishment as aforesaid, and except where those officers are specially commissioned by the department as provided in this section. The department may at the discretion of the secretary or his designee specially commission certain forest officers to preserve order in the State parks and State forests, with all of the powers conferred on park officers by section 303(a)(7).

(d) Chief Forest Fire Warden.—The Chief Forest Fire Warden, subject to the approval of the secretary, shall have the following powers and duties to:

(1) Take such measures for the prevention, control and extinction of forest fires as will assure a reasonable protection from fire to woodlots, forest and wild land within this Commonwealth.

(2) Supervise and manage the forest fire wardens throughout this Commonwealth and, when necessary, to appoint persons who shall serve without compensation as special or as ex officio fire wardens. Such special or ex officio fire wardens shall have the same powers as local forest fire wardens, but their duties may be changed or extended by the chief forest fire warden. Any special or ex officio forest fire warden, appointed as

herein provided, shall be entitled to receive the necessary expenses incurred by him in the performance of his duties as fire warden.

(3) Report to the secretary, at such times as the secretary shall require, covering all phases of the work done under his direction.

(4) Collect, with the assistance of the fire wardens under his supervision, data as to location and fire hazards of woodlots, forests and wild lands within this Commonwealth, as to forest fires and losses resulting therefrom, and such other data as he may desire to present to the department or the public.

(5) Plan and to put into operation and maintain a system of fire towers and observation stations, which shall cover the regions subject to forest fires and to purchase the necessary materials and equipment and hire the necessary labor.

(6) Appoint certain forest fire wardens as patrolmen for regions subject to great fire risk during dry seasons, whenever necessary.

(7) Enter into agreements with persons, associations or corporations, upon satisfactory terms, for forest fire prevention or control.

(8) Conduct educational work in relation to the protection of forests from fire.

(9) Approve and transmit to the secretary all correct bills for expenses incurred by him or under his supervision.

(10) Declare a public nuisance any property which by reason of its condition or operation is a special forest fire hazard and, as such, endangers other property or human life. He shall notify the owner of the property or the person responsible for the condition declared a public nuisance and advise him of the abatement of such public nuisance. In case of a railroad, such notice shall be served upon the superintendent of the division where the nuisance exists.

(11) Collect and arrange information concerning violation of laws relating to the protection of forests from fire and present the same to the secretary, who shall file it with the Office of Attorney General for legal action.

(12) Issue, to persons appointed forest fire wardens, certificates of appointment and, when deemed advisable, to issue badges to such persons.

(e) District fire warden.—Each district fire warden shall have the power and his duty shall be to:

(1) Establish headquarters at some advantageous place within his district.

(2) Act as the field representative of the Chief Forest Fire Warden.

(3) Collect and forward to the Chief Forest Fire Warden such data within his district as may be required by the Chief Forest Fire Warden.

(4) Make recommendations to the Chief Forest Fire Warden for the appointment of local fire wardens, the location of towers, the employment of patrolmen, the region to be patrolled and such other matters as may come to his attention which would tend to improve the protective system.

(5) Arrange for annual meetings of fire wardens within his district for instruction in forest fire matters.

(6) Report to the Chief Forest Fire Warden conditions existing within his district, which are or may become forest fire hazards, and to serve notices for the correction or removal of such conditions, after and when issued by the Chief Forest Fire Warden.

(7) Receive, audit and, if correct, approve the reports and accounts of the local fire wardens before submitting them to the Chief Forest Fire Warden.

(8) Act as an inspector of the work of the local fire wardens and render assistance to them.

(9) Conduct educational work and develop cooperation between local agencies and the department for the prevention and suppression of forest fires.

(10) Perform such other duties as may be assigned to him by the secretary and the Chief Forest Fire Warden.

(f) Local forest fire wardens.—It shall be the duty of each local forest fire warden:

(1) Whenever fire is discovered in or approaching woodlots, forests or wild lands, whether the same be owned by individuals, corporations or by the Commonwealth, immediately to take such measures as are necessary to extinguish the fire.

(2) Whenever fires have been combated or extinguished, to prepare a correct statement of expenses, upon forms to be furnished by the department, which must be filed with the district forest fire warden and forwarded to the Chief Forest Fire Warden within 60 days of the date of the fire.

(3) Promptly to investigate the cause of each fire which comes to his knowledge, collect such evidence as may be discovered relating thereto, and such other facts as he may be directed to investigate, and report the same to the Chief Forest Fire Warden.

(4) To attend an annual meeting of forest fire wardens in his district when notified or present a reasonable excuse.

(5) When designated as a patrolman or watchman, to perform such duties as may be assigned him by the Chief Forest Fire Warden or by the district forest fire warden.

(g) Powers of wardens generally.—Every forest fire warden, appointed as provided in this act, shall have the power to:

(1) Employ such other persons, as in his judgment may be necessary, to render assistance in extinguishing forest fires and to compel the attendance of persons and to require their assistance in the extinguishing of forest fires.

(2) Administer an oath or affirmation in order to examine any person who he believes knows facts relating to any forest fire or who claims compensation for services rendered.

(3) Enter upon any land at any time for the purpose of performing duties in accordance with this act.

(4) Arrest on view, without first procuring a warrant, any person detected by him in the act of committing an offense against any of the laws for the protection of forests, woodlots or wild lands or when he shall have a reasonable suspicion that any person is committing or about to commit some such offense. Such forest warden shall have further power to take the offender before a justice of the peace, magistrate or other officer having jurisdiction for hearing, trial or other due process of law.

(5) Exercise the foregoing powers, not only in the jurisdiction for or within which he may have been appointed but also in adjacent or other boroughs, townships or counties.

(h) Administration of certain statutes.—The department shall hereafter exercise the powers and duties heretofore conferred upon the agencies and officials by the following statutes:

The Commissioner of Forestry by the act of March 30, 1897 (P.L.11, No.10), entitled “An act authorizing the purchase by the Commonwealth of unseated lands for the non-payment of taxes for the purpose of creating a State Forest Reservation.”

The Commissioner of Forestry and the State Forestry Reservation Commission by the act of February 25, 1901 (P.L.11, No.9), entitled “An act to establish a Department of Forestry, to provide for its proper administration, to regulate the acquisition of land for the Commonwealth, and to provide for the control, protection and maintenance of Forestry Reservations by the Department of Forestry.”

The Commissioner of Forestry by the act of April 22, 1909 (P.L.124, No.79), entitled “An act to permit the acquisition of forest or other suitable lands by municipalities, for the purpose of establishing municipal forests; and providing for the administration, maintenance, protection, and development of such forests.”

The Commissioner of Forestry by section 15 of the act of May 13, 1909 (P.L.781, No.601), entitled “An act to create a system of fire-wardens to preserve the forest of the Commonwealth, by preventing and suppressing forest fires, and prescribing penalties for the violation thereof; providing for the compensation of the fire-wardens and those who assist in extinguishing fire, and making an appropriation therefor.”

The State Forestry Reservation Commission by the act of May 11, 1911 (P.L.271, No.173), entitled “An act empowering the United States of America to acquire land in the State of Pennsylvania for National Forest Reserves, by purchase or by condemnation proceedings; and granting to the United States of America all rights necessary for control and regulation of such reserves.”

The State Forestry Reservation Commission by the act of June 5, 1913 (P.L.426, No.284), entitled “An act to classify certain surface lands as auxiliary forest reserves; to prescribe the terms and conditions for their

continuance in said classification, or their withdrawal therefrom; and to provide for the expenses attendant thereon.”

The Department of Forestry by the act of July 22, 1913 (P.L.906, No.432), entitled “A supplement to an act, entitled ‘An act to create a system of fire-wardens to preserve the forests of the Commonwealth, by preventing and suppressing forest fires, and prescribing penalties for the violation thereof; providing for the compensation of the fire-wardens and those who assist in extinguishing fire, and making an appropriation therefor,’ approved the thirteenth day of May, one thousand nine hundred and nine; conferring authority upon the Department of Forestry to enter into cooperative relations with local associations established for the purpose of preventing forest fires, and providing for and regulating a local fire patrol and the compensation thereof.”

The Department of Forests and Waters by the act of April 21, 1915 (P.L.140, No.68), entitled “An act directing the county commissioners of the several counties to offer for sale to the Department of Forestry tracts of land which they may have purchased at county treasurers’ sales, for acceptance or refusal for forestry purposes, and to convey to the Commonwealth of Pennsylvania the tracts so offered to be sold, if accepted by the department.”

The Department of Environmental Resources and the Secretary of Environmental Resources by section 601 of the act of June 2, 1915 (P.L.736, No.338), known as the Workers’ Compensation Act.

The Commissioner of Forestry, the Department of Forests and Waters and the Bureau of Forest Protection by Articles I, V through VII and IX through XI of the act of June 3, 1915 (P.L.797, No.353), referred to as the Forest Fire Protection Law.

The Department of Forestry by the act of May 8, 1917 (P.L.156, No.88), entitled “An act authorizing the Department of Forestry to purchase surface rights to lands, for use as State forests.”

The State Forest Commission by the act of May 5, 1921 (P.L.418, No.194), entitled “An act authorizing the State Forest Commission to exchange or sell certain portions of the State forest land, and providing for the procedure.”

The Department of Forestry and the Commissioner of Forestry by the act of May 21, 1923 (P.L.290, No.186), entitled “An act authorizing the Department of Forestry to grant, on terms, conditions, and stipulations, rights to occupy and use any portions of the State forests for dams, reservoirs, canals, pipe lines, and other water conduits, for certain water supply purposes; and providing remedies for violations of this act, or regulations or orders hereunder, or of such terms, conditions, or stipulations; and providing for revocation of the grant in certain cases.”

The Department of Forestry by the act of May 28, 1923 (P.L.458, No.250), entitled “An act authorizing the Department of Forestry, with the approval of the Governor and Attorney General, to lease for periods of not more than fifty years, on terms, conditions, and stipulations expressed in

each lease, any portions of the State forests for dams, reservoirs, canals, pipe lines and other water conduits, power houses and transmission lines, for the development of water power, for steam raising and condensation, and for the generation and transmission of electric energy.”

The Department of Forestry by the act of June 14, 1923 (P.L.761, No.300), entitled “An act to authorize the Department of Forestry to offer and to pay rewards for evidence sufficient to convict anyone maliciously setting forest fire, and to authorize payment of such rewards to local forest fire wardens under certain conditions.”

The Department of Forests and Waters and the Secretary of Forests and Waters by the act of April 11, 1925 (P.L.232, No.153), entitled “An act making an appropriation; and providing for the hearing, adjusting, and paying of moral claims against the Commonwealth for injury to, or death of, persons while fighting forest fires under orders of agents of the Department of Forests and Waters.”

The Department of Forests and Waters and the State Forest Commission by the act of May 13, 1925 (P.L.643, No.346), entitled “An act to provide for the purchase by the Commonwealth of agricultural land suited to the growing of forest tree seedlings, and fixing a maximum amount that may be paid therefor.”

The Department of Forests and Waters and the Department of Environmental Resources by the act of May 5, 1927 (P.L.817, No.412), entitled, as amended, “An act authorizing and regulating the growth, sale, and distribution of forest tree seedlings, transplants, shrubs and vines by the Department of Forests and Waters; regulating the use of such forest tree seedlings, transplants, shrubs and vines and imposing duties upon the Department of Agriculture with regard to the enforcement of this act.”

The Department of Forests and Waters by the act of April 3, 1929 (P.L.135, No.137), entitled “An act authorizing the Department of Justice, acting for the Department of Forests and Waters, to institute suits on behalf of the Commonwealth to recover from persons, associations, copartnerships, and corporations, and their officers, agents, and employes, causing forest fires, the expenses incurred by the Department of Forests and Waters on account of such fires.”

The Secretary of Environmental Resources by section 712 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

The Secretary of Forest and Waters by the act of April 11, 1929 (P.L.515, No.219), entitled “An act for the elimination of special forest fire hazards; authorizing the Chief Forest Fire Warden, under certain circumstances, to declare any such hazard a public nuisance; providing for the abatement of the same, and for the collection of the cost of abatement; and imposing penalties.”

The Secretary of Forests and Waters by the act of May 17, 1929 (P.L.1798, No.591), referred to as the Forest Reserves Municipal Financial Relief Law.

The Department of Environmental Resources by section 17 of the act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act.

The Secretary of Forests and Waters and the Department of Forests and Waters by subarticle (c) of Article XXXVIII of the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code.

The Department of Forests and Waters by the act of June 23, 1931 (P.L.1202, No.328), entitled "An act authorizing the Department of Forests and Waters to cooperate with and to receive contributions from the Federal Government for forestry purposes; and providing for the use of such contributions."

The Department of Forests and Waters by subarticle (c) of Article XXX of the act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code.

The Department of Forests and Waters by the act of April 13, 1933 (P.L.35, No.30), entitled "An act for the development and use of unredeemed seated and unseated lands purchased by county commissioners at tax sales; providing for the holding and permanent retention of such lands by the county for forest or recreational uses beneficial to the local community, or for their transfer to the State, under suitable restrictions for similar uses, subject to certain annual charges; providing for the use of revenues derived from such lands; providing a procedure for the discharge of liens of record against such lands by sale after notice to owners and lien creditors; providing for the sale by counties of such lands as are retained by the county; providing for the appointment by local State Forest Advisory Councils; and conferring powers upon the Department of Forests and Waters and the Board of Game Commissioners with respect to the acquisition and exchange of such lands, their proper organization and development, and the acceptance of gifts of lands."

The Department of Forests and Waters by sections 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916 and 1917 of the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code.

The Department of Forests and Waters by the act of May 22, 1933 (P.L.853, No.155), known as The General County Assessment Law.

The Department of Forests and Waters by the act of May 22, 1933 (P.L.907, No.165), entitled "An act empowering the Department of Forests and Waters and the Board of Game Commissioners to purchase, in the name of the Commonwealth, seated and unseated lands at tax sales held by county treasurers; providing for and regulating the payment of the purchase price and redemptions in such cases; and providing for the payment of State charges on such lands."

The Secretary of Forests and Waters by the act of July 29, 1953 (P.L.970, No.235), referred to as the Middle Atlantic Interstate Forest Fire Protection Compact Act.

The Secretary of Forests and Waters and the Department of Forests and Waters by the act of July 9, 1959 (P.L.510, No.137), known as the Pennsylvania Public Lands Act.

The Department of Forests and Waters by the act of June 15, 1961 (P.L.418, No.208), known as the State Forest Lands Prospecting Act.

The Secretary of Forests and Waters and the Department of Forests and Waters by subarticle (c) of Article XXVII of the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code.

The Department of Forests and Waters by subarticle (e) of Article III of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

The Department of Environmental Resources by the act of June 27, 1973 (P.L.70, No.30), entitled "An act amending the act of May 13, 1915 (P.L.286, No.177), entitled 'An act to provide for the health, safety, and welfare of minors: By forbidding their employment or work in certain establishments and occupations, and under certain specified ages; by restricting their hours of labor, and regulating certain conditions of their employment; by requiring employment certificates or transferable work permits for certain minors, and prescribing the kinds thereof, and the rules for the issuance, reissuance, filing, return, and recording of the same; by providing that the Industrial Board shall, under certain conditions, determine and declare whether certain occupations are within the prohibitions of this act; requiring certain abstracts and notices to be posted; providing for the enforcement of this act by the Secretary of Labor and Industry, the representative of school districts, and police officers; and defining the procedure in prosecutions thereunder, and establishing certain presumptions in relation thereto; providing for the issuance of special permits for minors engaging in the entertainment and related fields; providing penalties for the violation of the provisions thereof; and repealing all acts or parts of acts inconsistent therewith,' providing for participation in certain training and fire-fighting activities."

The Department of Environmental Resources by the act of July 20, 1974 (P.L.524, No.178), referred to as the Interstate Cooperation Fire Protection Act.

The Department of Environmental Resources by the act of April 29, 1982 (P.L.369, No.103), entitled "An act authorizing the Department of Environmental Resources to reimburse cooperating counties for a portion of each county's costs incurred under State-County-Federal gypsy moth programs and out of a Federal Augmentation appropriation made to the department."

The Department of Environmental Resources by the act of December 20, 1983 (P.L.257, No.71), entitled "An act prohibiting the cutting, digging, removal, transportation or sale within this Commonwealth for any purpose of Christmas trees, without a bill of sale or other proof of ownership from the owner of the land on which the same are grown; and providing a penalty."

The Department of Environmental Resources by 34 Pa.C.S. § 723 (relating to exchange or sale).

The Department of Environmental Resources by 74 Pa.C.S. § 5905 (relating to certain State-owned airport).

Section 303. Parks.

(a) Powers and duties enumerated.—The department shall have the following powers and duties with respect to parks:

(1) To supervise, maintain, improve, regulate, police and preserve all parks belonging to the Commonwealth.

(2) For the purpose of promoting healthful outdoor recreation and education and making available for such use natural areas of unusual scenic beauty, especially such as provide impressive views, waterfalls, gorges, creeks, caves or other unique and interesting features, to acquire, in the name of the Commonwealth, by purchase, gift, lease or condemnation, any lands which in the judgment of the department should be held, controlled, protected, maintained and utilized as State park lands. Such lands may be purchased or accepted, subject to the conditions of any such lease and subject to such reservations, if any, of mineral rights, rights-of-way or other encumbrances as the department may deem not inconsistent with such holdings. However, the amount expended for the acquisition of lands for State park purposes shall not be more than the amount specifically appropriated for such purposes.

(3) To see that conveniences and facilities for the transportation, shelter, comfort and education of people shall be so designed and constructed as to retain, so far as may be, the naturalistic appearance of State park areas, surroundings and approaches, and conceal the hand of man as ordinarily visible in urban, industrial and commercial activities.

(4) To lease for a period not to exceed ten years, on such terms as may be considered reasonable, to any person, corporation, association or organization of this Commonwealth a portion of any State park, whether owned or leased by the Commonwealth, as may be suitable as a site for buildings and facilities to be used for health, recreational or educational purposes, or for parking areas or concessions for the convenience and comfort of the public. However, the department may, with the approval of the Governor, if a substantial capital investment is involved and if it is deemed in the best interests of the Commonwealth, enter into such leases for a period of not more than 35 years.

(5) To study, counsel and advise in reference to gifts of lands or money for park purposes.

(6) To counsel and advise in reference to the development of park lands by concessionaires with facilities and equipment for the accommodation and education of the public.

(7) To appoint and commission persons to preserve order in the State parks, which persons shall have all of the following powers:

(i) To make arrests without warrant for all violations of the law which they may witness and to serve and execute warrants issued by the proper authorities. However, in cases of offenses for violation of any of the provisions of 75 Pa.C.S. (relating to vehicles), the power to

make arrests without warrant shall be limited to cases where the offense is designated a felony or a misdemeanor or in cases causing or contributing to an accident resulting in injury or death to any person.

(ii) To have all the powers and prerogatives conferred by law upon members of the police force of cities of the first class.

(iii) To have all the powers and prerogatives conferred by law upon constables of this Commonwealth.

(iv) To serve subpoenas issued for any examination, investigation or trial under any law of this Commonwealth.

(v) When authorized by the secretary or his designee, to exercise all of the foregoing powers on State forest lands or in other areas administered by the department.

(8) For the purpose of providing parking facilities and incidental services within the borders of any State park area situate in the City of Philadelphia to lease or grant, by and with the written approval of the Governor, any portion of any such State park area, underground, aboveground, or both, to the city or to any parking authority now or hereafter existing in the city, pursuant to the provisions of the act of June 5, 1947 (P.L.458, No.208), known as the Parking Authority Law, as the same may now or hereafter be amended, if:

(i) the City of Philadelphia or the parking authority agrees that the lands and interests and privileges therein shall be used by the city or parking authority, or any lessee or sublessee holding under either of them, pursuant to any lease or sublease granted by the city or parking authority as may be permitted by law, to promote the establishment of parking services and facilities, but portions of the street level or lower floors of the parking facilities may be leased for commercial use, including emergency automobile repair service and the sale by the lessee of any commodity of trade or commerce or any service except the sale of gasoline or automobile accessories; and

(ii) The department, with the written approval of the Governor, determines that the lease or grant:

(A) will aid in promoting the public safety, convenience and welfare of the people of Philadelphia by aiding in the establishment of adequate parking services for the convenience of the public and otherwise promoting the public policy of the Commonwealth in authorization for the creation of parking authorities; and

(B) will not unduly interfere with the promotion of those public objects for which the State park area was acquired and for which it is held.

Any lease or grant shall be upon the terms and conditions of the period or periods of time the department, with the written approval of the Governor, may prescribe. The department shall execute and deliver and is empowered to receive deeds or other legal instruments necessary to effectuate any lease or grant. All deeds and instruments shall have the prior approval of

the Office of General Counsel and the Office of Attorney General, and a copy thereof shall be filed with the Department of Community Affairs.

(9) To make and execute contracts or leases in the name of the Commonwealth for the mining or removal of any oil or gas that may be found in a State park whenever it shall appear to the satisfaction of the department that it would be for the best interests of this Commonwealth to make such disposition of said oil and gas. Any proposed contracts or leases of oil and gas more than \$1,000 in value shall be advertised once a week for three weeks in at least two newspapers published nearest the locality indicated in advance of awarding such contract or lease. Such contracts or leases may then be awarded to the highest and best bidder who shall give bond for the proper performance of the contract as the department shall designate.

(10) To grant rights-of-way in and through State parks to municipal authorities and political subdivisions of this Commonwealth for the laying of water lines and of lines for the transportation of sewage to sewage lines or sewage treatment facilities on State park land under such terms and conditions, including the payment of fees, as the department may deem proper and when it shall appear that the grant of such right-of-way will not so adversely affect the land as to interfere with its usual and orderly administration and that the interests of this Commonwealth or its citizens will be promoted by such grant.

(11) To issue permits under emergency situations, upon such terms and subject to such restrictions, fees and regulations as the department may deem proper, for the utilization of water at a State park and for constructing, maintaining and operating lines of pipes upon and through a State park for the purpose of conveying water therefrom, wherever it shall be in the public interest to do so.

(b) Administration of certain statutes.—The department shall hereafter exercise the powers and duties heretofore conferred upon those agencies and officials listed below under the following statutes:

The Snyder-Middleswarth Park Commission and the Department of Forests and Waters by the act of April 12, 1921 (P.L.123, No.73), entitled "An act providing for the establishment and the regulation of a State park, to be known as the Snyder-Middleswarth State Park."

The Pennsylvania State Park and Harbor Commission of Erie by the act of May 27, 1921 (P.L.1180, No.436), entitled "An act dedicating certain lands of the Commonwealth of Pennsylvania, situated in the city and county of Erie, to public use as an historical memorial and public State park; aiding in the development of the harbor of Erie; and creating a commission to manage and control said lands and said harbor improvements; empowering said commission to purchase or receive by gift other lands for the purpose of this act; providing for the appointment of members of said commission, and that the Secretary of Internal Affairs and the Commissioner of Fisheries shall be ex officio members thereof;

defining the duties and powers of said commission; excepting rights and privileges in said lands heretofore granted; and making an appropriation.”

The Department of Forests and Waters by the act of April 14, 1927 (P.L.295, No.168), entitled “An act providing for the acquisition by the Department of Forests and Waters, in the name of the Commonwealth, of certain lands in Jefferson, Forest, and Clarion Counties, Pennsylvania, belonging to the A. Cook Sons Company, for use as a State Park and Forest Reservation; making an appropriation for said acquisition; providing for the management of said property by said department and defining the uses to which the property shall be put.”

The Department of Forests and Waters and the Water and Power Resources Board by the act of May 2, 1929 (P.L.1530, No.456), referred to as the Pymatuning Swamp Reservoir Project Law.

The Department of Forests and Waters by the act of June 2, 1933 (P.L.1415, No.301), entitled “An act dedicating and setting aside certain lands in Cameron and Clinton Counties as a public park and pleasure-ground, to be known as “Bucktail State Park”; and imposing certain powers and duties in connection therewith upon the Department of Forests and Waters and the Department of Justice of the Commonwealth.”

The Department of Forests and Waters and the Pennsylvania State Park and Harbor Commission of Erie by the act of July 15, 1935 (P.L.1002, No.320), entitled “An act relating to the Pennsylvania State Park at Erie, authorizing the Department of Forests and Waters to revoke and terminate certain revocable grants and to acquire, by purchase or eminent domain, private property rights or interests in respect to any lands within said park.”

The Department of Forests and Waters by the act of July 1, 1937 (P.L.2651, No.516), entitled “An act dedicating and setting aside certain lands in Lackawanna County as a public park and pleasure-ground; and imposing certain powers and duties in connection therewith on the Department of Forests and Waters.”

The Secretary of Forests and Waters, the Department of Forests and Waters and the State Parks Commission by the act of June 21, 1939 (P.L.621, No.290), entitled “An act authorizing the Secretary of Forests and Waters to utilize or transfer to the Department of Highways, canal properties or parts thereof acquired by the Department of Forests and Waters, and, in connection with such use, to sell waters from such canals.”

The Secretary of Forests and Waters by the act of June 21, 1939 (P.L.622, No.291), entitled “An act authorizing the Secretary of Forests and Waters, with approval of the Governor, to accept and acquire by gift, grant or other lawful means certain canal properties.”

The Department of Forests and Waters by the act of August 1, 1941 (P.L.609, No.257), entitled “An act providing for the acquisition by the Department of Forests and Waters, in the name of the Commonwealth, of certain lands in Luzerne, Sullivan and Wyoming Counties for use as a State Park; making an appropriation for said acquisition; providing for the

management of said property by said department, and defining the uses to which the property shall be put.”

The Department of Forests and Waters by the act of August 12, 1963 (P.L.658, No.343), entitled “An act providing for the acquisition by the Department of Forests and Waters of the Kinzua Bridge and certain adjoining grounds for a State park, and making an appropriation.”

The Department of Forests and Waters by the act of June 22, 1964 (Sp.Sess., P.L.131, No.8), known as the Project 70 Land Acquisition and Borrowing Act.

The Department of Environmental Resources by the act of July 20, 1974 (P.L.543, No.187), entitled “An act authorizing the lease of Independence Mall State Park in the City of Philadelphia, Philadelphia County, to the Government of the United States of America for use as a National Park, and further authorizing the conveyance of said State Park to the United States of America for use as a National Park, and, with certain reservations, ceding jurisdiction over such lands.”

The Department of Environmental Resources by 30 Pa.C.S. § 902 (relating to enforcement of other laws).

Section 304. Facility development.

(a) General rule.—The department has all powers and duties previously vested in the Department of Environmental Resources to design, construct, improve, maintain and repair those lands and facilities which it deems necessary or appropriate in the exercise of the powers and duties transferred by this act.

(b) Powers not restricted.—The powers and duties conferred by this section are not restricted by Article XXIV of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, to any greater extent than were the powers and duties of the Department of Environmental Resources in accordance with section 2401.2 of that act.

(c) Administration of certain statutes.—The department shall hereafter exercise the powers and duties heretofore conferred upon the agencies and officials listed below under the following statutes:

The Department of Forests and Waters and the Secretary of Forests and Waters by the act of May 20, 1921 (P.L.984, No.353), entitled “An act providing for the condemnation by the Commonwealth of lands suitable and desirable for forest purposes or game preserve purposes or the perpetuation and protection of fish; and defining the powers and duties of the Department of Forestry, the Board of Game Commissioners, and the Department of Fisheries, respectively, in relation thereto.”

The Department of Forests and Waters by the act of March 26, 1925 (P.L.84, No.53), entitled “An act authorizing the Department of Forests and Waters to accept gifts, donations, or contributions under certain circumstances; and providing for the use of such gifts.”

The Secretary of Forests and Waters, the Department of Forests and Waters and the Chief Forest Fire Warden by the act of March 1, 1945

(P.L.15, No.7), entitled "An act to authorize the Department of Forests and Waters to lease or sell its telephone lines or parts thereof."

The Department of Forests and Waters by the act of May 22, 1945 (P.L.834, No.335), entitled "An act providing for the acceptance by the Commonwealth of a gift of lands from the United States of America, or any Federal agency, and placing such lands under the control and supervision of the Department of Forests and Waters."

The Department of Forests and Waters and the Secretary of Forests and Waters by the act of December 15, 1955 (P.L.865, No.256), entitled "An act requiring rents and royalties from oil and gas leases of Commonwealth land to be placed in a special fund to be used for conservation, recreation, dams, and flood control; authorizing the Secretary of Forests and Waters to determine the need for and location of such projects and to acquire the necessary land."

The Department of Forests and Waters by the act of January 19, 1968 (1967 P.L.992, No.442), entitled "An act Authorizing the Commonwealth of Pennsylvania and the counties thereof to preserve, acquire or hold land for open space uses."

The Department of Environmental Resources by the act of November 29, 1990 (P.L.600, No.151), entitled "An act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing an opportunity for municipalities to purchase real property being disposed of by public utilities engaged in a railroad business."

The Department of Environmental Resources by the act of July 2, 1993 (P.L.359, No.50), known as the Keystone Recreation, Park and Conservation Fund Act.

Section 305. Ecological and geological services.

(a) Powers and duties enumerated.—The department shall have the power and its duty shall be with respect to the study and protection of the Commonwealth's ecological and geological resources:

(1) To undertake, conduct and maintain the organization of a thorough and extended survey of this Commonwealth for the purpose of elucidating the geology and topography of this Commonwealth. The survey shall disclose the chemical analysis and location of ores, coals, oils, clays, soils, fertilizing and of other useful minerals, and of waters, as shall be necessary to afford the agricultural, forestry, mining, metallurgical and other interests of this Commonwealth and the public a clear insight into the character of its resources. It shall also disclose the location and character of such rock formations as may be useful in the construction of highways or for any other purpose.

(2) To collect such specimens as may be necessary to form a complete-cabinet collection of specimens of the geological and mineral resources of this Commonwealth and deposit the same in the State Museum of Pennsylvania.

(3) To put the results of the survey, with the results of previous surveys, into a form convenient for reference.

(4) To collect copies of the surveys of this and other states and countries and digest the information therein contained to the end that the survey hereby contemplated may be made as thorough, practical and convenient as possible.

(5) To enter into and upon all lands and localities in this Commonwealth which it may be necessary to examine for the purpose of survey; but, in such entry, no damage to property shall be done.

(6) To avail itself as fully as possible of the information, maps and surveys possessed by citizens and corporations of this Commonwealth, relative to the geology and topography of this Commonwealth.

(7) To transmit all publications of the survey, or any part thereof, to the Department of General Services to be copyrighted by the Secretary of General Services in the name of the Commonwealth.

(8) To arrange for the cooperation of the United States Geological Survey or of such other national organization as may be authorized to engage in such work.

(9) To exercise the powers and duties vested in the Department of Environmental Resources by the act of June 23, 1982 (P.L.597, No.170), known as the Wild Resource Conservation Act. Notwithstanding any provision in the act to the contrary, the department may use any funds appropriated to it to carry out the purposes of this section.

(10) To undertake, conduct and maintain the organization of a thorough and extended survey of this Commonwealth for the purpose of inventory, survey and elucidation of the ecological resources of this Commonwealth, to gather and digest information from sources within and outside this Commonwealth and to put the results of the survey into a form convenient for reference. The ecological survey should identify the significant natural features of this Commonwealth and the species which comprise these features.

(b) Administration of certain statute.—The department shall exercise and is vested with the powers and duties established by the act of May 29, 1956 (1955 P.L.1840, No.610), known as the Water Well Drillers License Act. Section 306. Community recreation and heritage conservation.

(a) Powers and duties.—The department shall have the following powers and duties with respect to community recreation and heritage conservation:

(1) To administer Federal and State programs for grants and loans to local governments, municipal authorities and nonprofit organizations for community and regional projects involving the planning, acquisition, rehabilitation and development of public park, recreation and conservation areas, facilities and programs.

(2) To provide technical assistance and other services to communities, nonprofit groups, regional organizations, Federal and State agencies and organizations and the general public on any aspect of planning, acquiring, improving, managing, operating and maintaining public park, recreation and conservation areas, facilities and programs.

(3) To administer Federal and State heritage conservation programs, such as the Pennsylvania Heritage Parks Program and other programs that preserve, enhance and promote natural, recreational, cultural and scenic resources for heritage conservation, tourism and economic development.

(4) To provide grants and technical assistance to communities and zoo organizations for the rehabilitation and development of public zoological parks or other areas.

(b) Agreements with other agencies.—The department has the powers and duties to coordinate and enter into agreements with Federal agencies, State agencies, local governments and nonprofit organizations to carry out the aforementioned powers and duties.

(c) Community affairs.—The department shall have the powers and duties previously vested in the Secretary of Community Affairs and the Department of Community Affairs by the following acts:

The act of January 19, 1968 (1967 P.L.996, No.443), known as the Land and Water Conservation and Reclamation Act.

The act of December 21, 1973 (P.L.425, No.148), entitled “An act authorizing the establishment of environmental advisory councils by certain political subdivisions.”

The act of July 2, 1984 (P.L.527, No.106), known as the Recreational Improvement and Rehabilitation Act.

The act of July 2, 1993 (P.L.359, No.50), known as the Keystone Recreation, Park and Conservation Fund Act.

(d) Project 70.—The department shall have the powers and duties vested in the Department of Commerce by the act of June 22, 1964 (Sp.Sess., P.L.131, No.8), known as the Project 70 Land Acquisition and Borrowing Act, and transferred to the Department of Community Affairs by section 2501-C(h) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

Section 307. Rivers conservation.

(a) General rule.—The department shall have the power and duty to assist in the conservation, enhancement and restoration of the river resources of this Commonwealth and may make grants and provide technical assistance to local governments and nonprofit organizations for river conservation projects.

(b) Scenic rivers.—

(1) The department shall have the powers and duties previously vested in the Department of Environmental Resources by the act of December 5, 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic Rivers Act.

(2) The department shall have the powers and duties previously vested in the Department of Environmental Resources by the following acts:

The act of November 26, 1978 (P.L.1415, No.333), known as the Schuylkill Scenic River Act.

The act of March 24, 1980 (P.L.50, No.18), known as the Stony Creek Wild and Scenic River Act.

The act of April 5, 1982 (P.L.222, No.71), known as the Lehigh Scenic River Act.

The act of April 29, 1982 (P.L.351, No.97), known as the French Creek Scenic Rivers Act.

The act of December 17, 1982 (P.L.1402, No.324), known as the Lick Run Wild and Scenic River Act.

The act of October 21, 1983 (P.L.171, No.43), known as the Octoraro Creek Scenic Rivers Act.

The act of March 30, 1988 (P.L.318, No.42), known as the LeTort Spring Run Scenic River Act.

The act of December 19, 1988 (P.L.1286, No.161), known as the Tucquan Creek and Bear Run Scenic Rivers Act.

The act of June 16, 1989 (P.L.22, No.7), known as the Lower Brandywine Scenic Rivers Act.

The act of December 4, 1992 (P.L.763, No.116), known as the Yellow Breeches Creek Scenic River Act.

The act of December 4, 1992 (P.L.767, No.118), known as the Tulpehocken Creek and Yellow Breeches Creek Scenic River Act.

The act of December 4, 1992 (P.L.784, No.124), known as the Pine Creek Scenic Rivers Act.

Section 308. Trails and greenways.

(a) General rule.—The department shall have the power and duty to assist in the planning, establishment and development of trails and greenways throughout this Commonwealth and may make grants and provide technical assistance to local governments and nonprofit organizations for the planning, acquisition and development of recreational trail and greenway projects.

(b) Rails to trails.—The department shall have the powers and duties previously vested in the Department of Environmental Resources and the Environmental Quality Board by the act of December 18, 1990 (P.L.748, No.188), known as the Rails to Trails Act.

(c) Snowmobiles and ATV's.—The department shall have the powers and duties vested in the Department of Environmental Resources by 75 Pa.C.S. Ch. 77 (relating to snowmobiles and all-terrain vehicles).

(d) Appalachian Trail.—The department shall have the powers and duties vested in the Department of Environmental Resources by the act of April 28, 1978 (P.L.87, No.41), known as the Pennsylvania Appalachian Trail Act.

(e) Construction.—Nothing in this act shall be construed to be grounds for the imposition of responsibility by the Pennsylvania Public Utility Commission for maintenance or costs of any railroad crossing or abandoned railroad crossing under 66 Pa.C.S. Ch. 27 (relating to railroads).

Section 309. Youth conservation programs.

(a) Powers and duties.—The department shall have the powers and duties previously vested in the Department of Environmental Resources by the act of July 2, 1984 (P.L.561, No.112), known as the Pennsylvania Conservation Corps Act.

(b) Federal funding.—The department shall have the power to establish and maintain conservation work experience programs authorized and funded

under Federal law and to accept, use and grant funds made available by Federal agencies for such programs.

Section 310. Volunteers.

(a) Services of individuals without compensation.—The secretary is authorized to recruit, train and accept without regard to the civil service classification laws, rules or regulations, the services of individuals without compensation as volunteers for or in aid of interpretive functions, visitor services, conservation measures and development or other activities in and related to State park and forest areas and other conservation and natural resource activities administered by the department.

(b) Expenses.—The secretary is authorized to provide for incidental expenses, such as transportation, uniforms, lodging and subsistence.

(c) Status of volunteers.—

(1) Except as otherwise provided in this section, a volunteer shall not be deemed to be a Commonwealth employee and shall not be subject to the provisions of law relating to Commonwealth employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation and Commonwealth employee benefits.

(2) Volunteers performing work under the terms of this act shall be authorized to operate Commonwealth vehicles and shall be treated for the purposes of automotive and general liability as employees of the Commonwealth.

(3) For the purposes of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, volunteers under this act shall be deemed employees of the Commonwealth.

(4) No volunteer shall be assigned to any position, covered by any labor agreement, presently filled or authorized in the department.

(d) Natural Resource Volunteer Program.—The department shall have the power and authority to do all things necessary and expedient to establish and operate a Natural Resource Volunteer Program and to promulgate rules and regulations under this section.

Section 311. Environmental education.

The department shall establish a program to provide and promote environmental education related to the conservation, utilization and preservation of the natural resources of this Commonwealth. For these purposes, the department may use funds provided by the Department of Environmental Protection pursuant to the act of June 22, 1993 (P.L.105, No.24), known as the Environmental Education Act, and any other available funds. The amount of funds provided by the Department of Environmental Protection shall not be less than 25% of the annual receipts of the Environmental Education Fund and may be used for the purpose stated in this section notwithstanding any limitations in the Environmental Education Act.

Section 312. Whitewater recreation.

(a) General rule.—The department shall have the power and duty to promulgate rules and regulations to protect, manage and regulate the recreational use of designated whitewater zones, to license whitewater

outfitters operating within designated whitewater zones and to establish fees, royalties and charges for licenses and for using public lands, waters and facilities.

(b) License guidelines.—For each specific designated whitewater zone, a license to continue operating as a whitewater rafting outfitter shall be issued by the department to any whitewater rafting outfitter who:

(1) has provided whitewater rafting services on a designated whitewater zone for a period of five or more years;

(2) has provided those services under formal agreement with the department;

(3) has demonstrated an acceptable measure of compliance with the safety and operational requirements of that agreement; and

(4) has provided whitewater rafting services on that designated whitewater zone prior to operation and management of that designated whitewater zone through formal agreement with the department.

Each whitewater rafting outfitter presently conducting whitewater rafting trips under agreement with the Department of Environmental Resources shall be deemed to fulfill the foregoing criteria.

(c) Renewal.—Licenses issued by the department to continue to operate as a whitewater rafting outfitter:

(1) shall be for a period of ten years and shall be renewable under guidelines appropriate and necessary to protect the public health, safety and interest and provide stability to the outfitting industry;

(2) shall be transferable under reasonable guidelines of the department relating to transfer of licenses and required qualifications of transferees;

(3) shall include the right to continue to utilize or lease any premises leased before the effective date of this act by a whitewater rafting outfitter from the department or offer to lease such access areas as the department deems appropriate for use by whitewater rafting outfitters; and

(4) shall supersede, after the adoption of regulations, any agreement between the department and a whitewater rafting outfitter, except fee agreements in which a whitewater rafting outfitter is required to pay the department a fee, which fee agreements shall continue for the life of the agreement and which shall not preclude the issuance of a license.

(d) Additional whitewater rafting outfitter licenses.—The department may, with regard to a specific designated whitewater zone, accept bids, issue licenses and charge fees and royalties for an additional whitewater rafting outfitter only if the department determines that there is additional whitewater rafting outfitter carrying capacity on the waterway and that there is a need for additional whitewater rafting outfitter allocations. Such licenses shall apply only for that specific designated whitewater zone and only for a period not to exceed ten years.

(e) Operation and safety of whitewater zone.—Licensed whitewater rafting outfitters shall be subject to all appropriate rules, regulations and guidelines promulgated by the department for the purposes of regulating the operation and safety of each designated whitewater zone.

(f) Termination.—Licenses granted by the department may be terminated by the department for noncompliance after a 30-day written notice to the outfitter and a hearing in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

Section 313. Rulemaking authority.

(a) Interests of Commonwealth.—The department shall, in the manner provided by law, promulgate such rules and regulations, not inconsistent with law, for the control, management, protection, utilization, development, occupancy and use of the lands and resources of State parks and State forests, as it may deem necessary or proper to conserve the interests of the Commonwealth.

(b) State parks.—Rules and regulations with respect to State parks shall be compatible with the purposes for which State parks are created.

(c) State forests.—Rules and regulations with respect to State forests shall be compatible with the purposes for which the State forests are created, namely to provide a continuous supply of timber, lumber, wood and other forest products, to protect the watersheds, conserve the waters and regulate the flow of rivers and streams of this Commonwealth and to furnish opportunities for healthful recreation to the public.

(d) General rule.—The department shall promulgate such rules and regulations as are necessary to carry out this act.

(e) Conduct on Commonwealth property.—The department shall have the powers vested in the Department of Environmental Resources under 18 Pa.C.S. § 7506 (relating to violation of rules regarding conduct on Commonwealth property).

(f) Powers of Environmental Quality Board.—The department shall continue to exercise any power to formulate, adopt and promulgate rules and regulations heretofore vested in the Environmental Quality Board set forth in section 1920-A(c) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, insofar as that power relates to the power and duty to promulgate regulations imposed upon the Department of Forests and Waters, the Secretary of Forests and Waters, the Pennsylvania State Park and Harbor Commission of Erie and the State Forest Commission.

(g) Powers and duties conferred by statute.—The department shall have the powers and duties previously vested in the Environmental Quality Board by the following:

Sections 7, 8 and 9 of the act of June 23, 1982 (P.L.597, No.170), known as the Wild Resource Conservation Act.

Section 5 of the act of December 18, 1990 (P.L.748, No.188), known as the Rails to Trails Act.

(h) Existing rules.—Any such rules and regulations promulgated prior to the effective date of this act shall be the rules and regulations of the department until such time as they are modified or repealed by the department.

(i) Law applicable.—The department shall promulgate its rules and regulations subject to the act of July 31, 1968 (P.L.769, No.240), referred to

as the Commonwealth Documents Law, the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, except for the establishment of fees and charges under section 314.

Section 314. Fees and charges.

Whenever the department imposes fees or charges for activities, admissions, uses or privileges, including charges for concessions, at or relating to State parks, such charges or fees shall be used solely for the acquisition, maintenance, operation or administration of the State park system and are hereby appropriated for such purposes. The department shall not adopt or impose any charges or fees for parking or general admission to State parks unless the charges were imposed prior to January 1, 1995. The department may continue to impose and modify parking charges and fees applicable to specific services or units within the State park system which were imposed prior to January 1, 1995, and may impose charges or fees for admission to and for use of specific services and facilities in State parks. The department shall continue to exercise the powers previously vested in the Environmental Quality Board regarding the imposition of fees and charges for State parks and State forests.

Section 315. Conservation and Natural Resources Advisory Council.

(a) **Composition.**—The Conservation and Natural Resources Advisory Council shall consist of the Secretary of Conservation and Natural Resources, six members who shall be appointed by the Governor, no more than three of whom shall be of the same political party, six members who shall be appointed by the President pro tempore of the Senate, no more than three of whom shall be of the same political party, and six members who shall be appointed by the Speaker of the House of Representatives, no more than three of whom shall be of the same political party. The appointed members of the council shall be citizens of this Commonwealth who, during their respective terms, shall hold no other Commonwealth office to which any salary is attached. The council shall include persons knowledgeable in fields related to the work of the department.

(b) **Term.**—The term of office of each appointed member shall be three years, measured from the third Tuesday of January of the year in which he takes office, or until his successor has been appointed; except that in the initial appointments of the members of the council, the respective appointing authorities shall appoint two members for terms of one year each, two members for terms of two years each and two members for terms of three years each.

(c) **Officers and meetings.**—The council shall annually elect one of its appointed members as chairman and shall elect a secretary who need not be a member of the council. Meetings of the council shall be held at least quarterly or at the call of the chairman.

(d) **Powers and duties.**—

(1) The council shall review all conservation and natural resource laws of the Commonwealth and make appropriate suggestions for the revision, modification and codification thereof.

(2) The council shall consider, study and review the work of the department, and for this purpose the council shall have access to all books, papers, documents and records pertaining or belonging to the department.

(3) The council shall advise the department, on request, and shall make recommendations upon its initiative for the improvement of the work of the department.

(4) The council shall report annually to the Governor and to the General Assembly and may make such interim reports as are deemed advisable.

(5) The council shall have power to employ and fix the compensation of such experts, stenographers and assistants as may be deemed necessary to carry out the work of the council, but due diligence shall be exercised by the council to enlist such voluntary organizations and other agencies in Pennsylvania or elsewhere generally recognized as qualified to aid the council.

Section 316. Advisory committees.

(a) Creation.—The department is authorized to create advisory committees to help develop or discuss proposed regulation, final regulation or policy guidance and to provide continuing advice on implementing programs administered by the department.

(b) Organization.—Membership on an advisory committee shall be balanced and shall be representative of the interests affected by the particular regulation, policy, issue or program assigned to the committee.

(c) Appointments.—The secretary shall appoint the members of an advisory committee.

(d) Chairperson.—A chairperson shall be chosen by a majority vote of the advisory committee members present at a regularly scheduled meeting. A person employed by the department shall not chair an advisory committee.

(e) Expenses.—Members of an advisory committee may be reimbursed for their travel expenses to attend committee meetings as authorized by the Executive Board. Employees of the Commonwealth who serve as members of an advisory committee shall only be entitled to the compensation and expenses they receive as public employees.

(f) Support.—The department shall provide the appropriate administrative and technical support needed by an advisory committee in order to accomplish its objectives.

Section 317. Ex officio memberships of secretary.

The secretary shall serve in lieu of the Secretary of Environmental Resources on the following boards and commissions:

- (1) The Boating Advisory Board.
- (2) The Board of Trustees of The Pennsylvania State University.
- (3) The Hardwoods Development Council.
- (4) The Wild Resource Conservation Board.

Section 318. Contracts and agreements.

(a) Authorized entities.—The department may enter into contracts and agreements with persons, associations, corporations, partnerships, municipalities, municipal authorities and units of Federal, State and local government to exercise the powers and fulfill the duties established by this act.

(b) State System of Higher Education.—The department may enter into agreements for studies and services with State-related institutions and institutions which are part of the State System of Higher Education without the need for competitive procurement.

(c) Rights-of-way.—The department shall have the power to lease rights-of-way for a period of not more than 35 years, on terms and conditions as it may consider reasonable, to owners of real property abutting State lands under the jurisdiction of the department.

Section 319. Transfer of funds.

(a) Transfer from Department of Environmental Resources.—The administration of the following funds or portions of funds, as may be administered by the Department of Environmental Resources, shall be transferred from the Department of Environmental Resources to the department:

- (1) State Parks User Fees Restricted Receipts Account.
- (2) Forestry Stumpage Sales Restricted Receipts Account.
- (3) Quehanna Fund - Act 275 Restricted Revenue Account.
- (4) Snowmobile/ATV Program Restricted Revenue Account.
- (5) Quehanna Fund - Act 55 Restricted Revenue Account.
- (6) Purchase of State Forest Land Restricted Revenue Account.
- (7) Keystone Recreation, Park and Conservation Fund.
- (8) Land and Water Development Fund (Public Outdoor Recreation Areas appropriation only).
- (9) Motor License Fund.
- (10) Oil and Gas Lease Fund.
- (11) Wild Resource Conservation Fund.

(b) Transfer from Department of Community Affairs.—The administration of the following funds or portions of funds shall be transferred from the Department of Community Affairs to the department:

- (1) Keystone Recreation, Park and Conservation Fund.
- (2) Pennsylvania Heritage Parks Program appropriations from the General Fund.

(c) State forests.—A minimum of 10% of the previous fiscal year's receipts of the Forestry Stumpage Sales Restricted Receipts Account shall be transferred to a separate Forest Regeneration Restricted Revenue Account and is hereby appropriated to the department, in addition to the funds necessary for the operation, maintenance and administration of the State forest system, to expend on forest regeneration activities, including, but not limited to, erecting deer fences, planting trees and treating forests with herbicides. Any balance in the Forest Regeneration Restricted Revenue Account in excess of

5% of the previous year's receipts at the end of the fiscal year shall be returned to the Forestry Stumpage Sales Restricted Receipts Account.

Section 320. Renumbering regulations.

The department shall deposit a notice with the Legislative Reference Bureau renumbering the following regulations and statements of policy to the appropriate title of the Pennsylvania Code and making at that time needed editorial changes to reflect the transfers of powers and duties under this act:

16 Pa. Code Ch. 5 Subch. E (relating to land and water conservation fund-statement of policy)

25 Pa. Code Ch. 11 Subch. A (relating to scenic rivers)

25 Pa. Code Ch. 11 Subch. B (relating to natural areas and wild areas)

25 Pa. Code Ch. 11 Subch. C (relating to campsites)

25 Pa. Code Ch. 17 (relating to transfer or exchange of State park land-statement of policy)

25 Pa. Code Ch. 18 (relating to transfer or exchange of State forest land-statement of policy)

25 Pa. Code Ch. 31 (relating to general provisions)

25 Pa. Code Ch. 51 (relating to general provisions)

25 Pa. Code Ch. 52 (relating to State forest picnic areas)

25 Pa. Code Ch. 81 (relating to prevention of railroad-caused forest fires)

25 Pa. Code Ch. 82 (relating to conservation of Pennsylvania native wild plants)

25 Pa. Code Ch. 195 (relating to snowmobile and all-terrain vehicle registration and operation).

Section 321. Transfer provisions.

(a) Transfer enumerated.—The following are transferred to the department:

(1) All bureaus, organizations and divisions in the Department of Environmental Resources responsible for the functions enumerated in this act.

(2) The Bureau of Recreation and Conservation in the Department of Community Affairs.

(3) All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended by the Department of Environmental Resources in connection with the functions transferred by this act to the Department of Conservation and Natural Resources in the first instance and as if these contracts, agreements and obligations had been incurred or entered into by the Department of Conservation and Natural Resources.

(4) All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended by the Department of Community Affairs in connection with the functions transferred by this act to the Department of Conservation and Natural Resources in the first instance and as if these

contracts, agreements and obligations had been incurred or entered into by the Department of Conservation and Natural Resources.

(b) Apportionment.—The personnel, appropriations, equipment and other items and material transferred by this section shall include an appropriate portion of the general administrative, overhead and supporting personnel, appropriations, equipment and other material of the agency and shall also include, where applicable, Federal grants and funds and other benefits from any Federal program.

(c) Status of employees.—All personnel transferred pursuant to this act shall retain any civil service employment status assigned to the personnel.
Section 322. Civil service status.

All positions in the department shall be deemed to be included in the list of positions set forth in section 3(d) of the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act, and the provisions and benefits of that act shall apply to the employees of and positions in the department.

CHAPTER 5

RENAMING DEPARTMENT OF ENVIRONMENTAL RESOURCES
AND DEFINING RULEMAKING AUTHORITY OF
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Section 501. Department of Environmental Protection.

The Department of Environmental Resources is renamed the Department of Environmental Protection.

Section 502. Rulemaking authority.

(a) Continuance.—The Environmental Quality Board shall continue to exercise any power to formulate, adopt and promulgate rules and regulations currently vested in the Environmental Quality Board set forth in section 1920-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, except that the Department of Conservation and Natural Resources shall be vested with the power and the duty to promulgate regulations imposed upon the Department of Forests and Waters, the Secretary of Forests and Waters, the Pennsylvania State Park and Harbor Commission of Erie and the State Forest Commission.

(b) Existing rules.—Any rules and regulations provided for in subsection (a) promulgated prior to the effective date of this act shall continue to be the rules and regulations of the Environmental Quality Board until such time as they are modified or repealed by that board.

(c) Environmental Quality Board.—The Environmental Quality Board shall have the powers and duties currently vested in the Environmental Quality Board, except as vested in the Department of Conservation and Natural Resources by this act, which powers and duties are more specifically set forth, but not limited by, the following:

Sections 1920-A(h) and (i) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

Sections 1, 5, 8 and 612 of the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

The act of May 15, 1945 (P.L.547, No.217), known as the Conservation District Law.

The act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act.

The act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act.

Sections 2, 7.2, 8 and 9 of the act of January 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities Act.

The act of April 27, 1966 (1st Sp.Sess., P.L.31, No.1), known as The Bituminous Mine Subsidence and Land Conservation Act.

Sections 3.1, 3.2 and 14 of the act of September 24, 1968 (P.L.1040, No.318), known as the Coal Refuse Disposal Control Act.

Section 6 of the act of July 20, 1974 (P.L.572, No.198), known as the Pennsylvania Solid Waste - Resource Recovery Development Act.

Sections 5 and 9 of the act of July 9, 1976 (P.L.931, No.178), referred to as the Coal Mine Emergency Medical Personnel Law.

Section 301 of the act of June 23, 1978 (P.L.537, No.93), known as the Seasonal Farm Labor Act.

Sections 207 and 302 of the act of October 4, 1978 (P.L.851, No.166), known as the Flood Plain Management Act.

Sections 14 and 17 of the act of October 4, 1978 (P.L.864, No.167), known as the Storm Water Management Act.

Sections 5, 7, 10, 11, 17 and 26 of the act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act.

Sections 4, 5, 6 and 7 of the act of May 13, 1980 (P.L.122, No.48), known as the Bluff Recession and Setback Act.

Sections 104, 105(a), (b), (c), (e) and (j), 402, 506 and 610 of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

Sections 3 and 4 of the act of May 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking Water Act.

Section 302 of the act of July 10, 1984 (P.L.688, No.147), known as the Radiation Protection Act.

Sections 11, 24 and 25 of the act of December 19, 1984 (P.L.1093, No.219), known as the Noncoal Surface Mining Conservation and Reclamation Act.

Sections 201, 215, 216, 603.1 and 604 of the act of December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act.

Sections 301, 302(a), 304, 305, 314 and 321 of the act of February 9, 1988 (P.L.31, No.12), known as the Low-Level Radioactive Waste Disposal Act.

Section 5 of the act of July 6, 1988 (P.L.487, No.82), known as the Abandoned Mine Subsidence Assistance Act.

Section 4(b) of the act of July 13, 1988 (P.L.525, No.93), referred to as the Infectious and Chemotherapeutic Waste Law.

Sections 302, 1102 and 1512 of the act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act.

Sections 303, 501, 504, 510 and 1104 of the act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act.

Sections 3 and 4 of the act of July 5, 1989 (P.L.166, No.31), known as the Phosphate Detergent Act.

Sections 105, 106, 505, 701 and 1102 of the act of July 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill Prevention Act.

Sections 7 and 9 of the act of July 6, 1989 (P.L.207, No.33), known as the Plumbing System Lead Ban and Notification Act.

Sections 3 and 5 of the act of May 28, 1992 (P.L.249, No.41), known as the Sewage System Cleaner Control Act.

75 Pa.C.S. § 4909 (relating to transporting foodstuffs in vehicles used to transport waste).

(d) Rules and regulations.—The Environmental Quality Board shall, in the manner provided by law, promulgate the rules and regulations necessary to carry out this chapter.

(e) Environmental Quality Board.—Rulemakings of the Environmental Quality Board that have not been printed in the Pennsylvania Bulletin as final regulations on the effective date of this act shall continue to be rulemakings of the Environmental Quality Board and shall not be required to meet the requirements of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, or the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, which were met prior to the effective date of this act.

Section 503. Continued authority of Department of Environmental Protection, State Conservation Commission and Department of Agriculture.

(a) Powers and duties.—The Department of Environmental Protection shall continue to exercise the same powers and perform the same duties and functions by law vested in and imposed upon the Department of Environmental Resources not otherwise amended or transferred by this act to the Department of Conservation and Natural Resources.

(b) Administrative officers.—All appointive administrative officers holding office in the Department of Environmental Resources when this act becomes effective shall continue in office in the Department of Environmental Protection until the term for which they were respectively appointed shall expire or until they shall die, resign or be removed from office.

(c) Sand and gravel permits.—Section 1808(d) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is saved from repeal and the Department of Environmental Protection and Pennsylvania Fish and Boat Commission shall continue to exercise the rights, powers and duties thereof, provided that the Pennsylvania Fish and Boat Commission may, by

regulation, with the concurrence of the Department of Environmental Protection, adjust the amount of the royalty payments per ton or cubic foot of usable and/or merchantable sand and/or gravel.

(d) State Conservation Commission.—The State Conservation Commission established under the act of May 15, 1945 (P.L.547, No.217), known as the Conservation District Law, shall continue to have all the powers and duties assigned under that act and all the powers and duties assigned under the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act, except as modified below. The following provisions are intended to modify the authority and responsibilities of the State Conservation Commission and the Department of Environmental Protection and the Department of Agriculture:

(1) The chairmanship of the State Conservation Commission shall rotate on an annual basis between the Secretary of Agriculture and the Secretary of Environmental Protection with the Secretary of Agriculture chairing the State Conservation Commission for the first annual rotation beginning July 1, 1995.

(2) The State Conservation Commission by a majority vote shall select and employ an independent executive secretary to act as staff to the State Conservation Commission who is not supervised by either the Department of Environmental Protection or the Department of Agriculture. The State Conservation Commission is authorized to assign the executive secretary duties and responsibilities as required to fulfill its obligations under State law to develop, implement and enforce conservation programs, including the Nutrient Management Act.

(3) To enhance the ability of the State Conservation Commission to accomplish its obligations, the Secretary of Agriculture shall designate an office and staff within that agency to coordinate and assist in the development, implementation and enforcement of programs adopted by the State Conservation Commission that solely affect production agriculture. The office and staff designated by the Secretary of Agriculture shall be an advocate for production agriculture in the development of programs by the State Conservation Commission, assist in developing methods of managing excess manure in an environmentally sound manner, develop programs to assist those engaged in production agriculture to comply with the Nutrient Management Act and act as an ombudsman to help resolve issues related to county conservation district implementation of State Conservation Commission programs solely affecting production agriculture.

(4) The Secretary of Environmental Protection shall designate an office and staff within the agency to coordinate and assist in the development, implementation and enforcement of programs adopted by the State Conservation Commission which are intended, in whole or in part, to protect surface or ground water.

(5) The State Conservation Commission shall be responsible for taking enforcement actions under the Nutrient Management Act. In the exercise of its enforcement authority, the State Conservation Commission shall be

assisted by the staff of the Department of Environmental Protection for actions resulting in violations of the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, and shall be assisted by the Department of Agriculture for all other violations.

Section 504. Energy programs.

(a) **Building Energy Conservation Act.**—The Department of Environmental Protection has the powers and duties previously vested in the Governor's Energy Council by the act of December 15, 1980 (P.L.1203, No.222), known as the Building Energy Conservation Act.

(b) **Energy Conservation and Assistance Act.**—The Department of Environmental Protection has the powers and duties previously vested in the Governor's Energy Council by the act of July 10, 1986 (P.L.1398, No.122), known as the Energy Conservation and Assistance Act.

(c) **Alternative fuels.**—The Department of Environmental Protection has the powers and duties previously vested in the Pennsylvania Energy Office by 75 Pa.C.S. Ch. 72 (relating to alternative fuels).

(d) **Other powers and duties transferred.**—Any reference to the Pennsylvania Energy Office in any other act shall be interpreted to mean the Department of Environmental Protection, and any such powers and duties in such acts and other functions currently performed or administered by the Pennsylvania Energy Office are hereby transferred to the Department of Environmental Protection.

Section 505. Department of Health.

Notwithstanding any other provisions of this act, the Department of Health shall exercise the powers and duties and perform the duties by law heretofore vested in and imposed upon the Department of Environmental Resources as follows:

(1) The control of nuisances arising from the sanitary condition of tenements, lodging and boarding houses and management of the sanitary affairs of this Commonwealth relating to tenements, lodging and boarding houses, organized camps and public bathing places.

(2) The act of November 10, 1959 (P.L.1400, No.497), entitled "An act providing for the annual registration of organized camps for children, youth and adults; defining the duties of the Department of Health of the Commonwealth of Pennsylvania; and prescribing penalties."

(3) The act of June 23, 1931 (P.L.899, No.299), known as the Public Bathing Law. As to the Public Bathing Law, the Department of Health shall have the authority to promulgate rules and regulations to protect the public health and safety at all public places.

Section 506. Department of Agriculture.

Notwithstanding any other provisions of this act, the Department of Agriculture shall exercise the powers and duties and perform the duties by law heretofore vested in and imposed upon the Department of Environmental Resources under the act of June 23, 1978 (P.L.537, No.93), known as the Seasonal Farm Labor Act.

Section 507. Transfer of funds.

The administration of the following funds or portions of funds, as may be administered by the Pennsylvania Energy Office, shall be transferred from the Pennsylvania Energy Office to the Department of Environmental Protection:

- (1) Energy Conservation and Assistance Fund.
- (2) Alternative Fuels Incentive Grant Fund.
- (3) All other funds or portions of funds currently administered by the Pennsylvania Energy Office.

Section 508. Regulations.

Any regulations, guidelines or statements of policy issued by the Pennsylvania Energy Office for the functions transferred to the Department of Environmental Protection shall remain in effect until such time as the Department of Environmental Protection shall determine the need to amend such regulations, guidelines or statements of policy.

Section 509. Transfer of personnel.

(a) General rule.—Certain personnel, allocations, appropriations, fixed assets, equipment, files, records, contracts, agreements, obligations and all other materials and supplies which are used, employed or expended by the Pennsylvania Energy Office in connection with the functions transferred by this act to the Department of Environmental Protection in the first instance shall be transferred from the Pennsylvania Energy Office to the Department of Environmental Protection and shall be considered as if these contracts, agreements and obligations had been incurred or entered into by the Department of Environmental Protection.

(b) Federal programs.—The items transferred by this section shall include, where applicable, Federal grants and funds and other benefits from any Federal program.

(c) Civil service status.—All personnel transferred under this act shall retain any civil service employment status assigned to said personnel. Those employees transferred pursuant to this act who do not have civil service status and who have six months of service or less in their present classification on the effective date of this act are hereby granted probationary status without examination. Those employees transferred pursuant to this act who do not have civil service status and who have more than six months of service in their present classification are hereby granted regular civil service status.

CHAPTER 11 GENERAL PROVISIONS

Section 1101. Savings provision.

(a) Matters transferred to Department of Conservation and Natural Resources.—All orders, permits, regulations, decisions and other actions of the Department of Environmental Resources related to the functions transferred to the Department of Conservation and Natural Resources shall remain in full force and effect until modified, repealed, suspended, superseded or otherwise changed by appropriate action of the Department of Conservation and Natural Resources.

(b) Matters remaining with Department of Environmental Protection.—All other orders, permits, regulations, decisions and other actions of the Department of Environmental Resources shall remain in full force and effect until modified, repealed, suspended, superseded or otherwise changed by appropriate action of the Department of Environmental Protection.

(c) Construction.—The provisions of this act, insofar as they are the same as those of existing laws, shall be construed as a continuation of these laws and not as new enactments.

Section 1102. Repeals.

(a) Absolute.—The following acts and parts of acts are repealed:

Sections 1902-A, 1903-A, 1906-A, 1907-A, 1908-A(2), 1910-A, 1911-A, 1912-A, 1913-A, 1914-A, 1924-A and 1926-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

The act of December 17, 1981 (P.L.472, No.136), entitled “An act authorizing the Secretary of Environmental Resources to establish a Volunteers in State Parks and Forests Program and for other purposes.”

(b) General.—All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 1103. Effective date.

This act shall take effect July 1, 1995.

APPROVED—The 28th day of June, A.D. 1995.

THOMAS J. RIDGE